UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/510,747	02/22/2000	Huey Ly	10992824-1	3079

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EXAMINER
WOOD, WILLIAM H

ART UNIT	PAPER NUMBER
2124	

DATE MAILED: 07/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

	Application No.	Applicant(s)
Office Action Summary	09/510,747	LY, HUEY
	Examiner	Art Unit	
	William H. Wood	2124	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _22 February 2000_ .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-20_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____ .

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)   4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5)☐ Notice of Informal Patent Application (PTO-152)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .   6)☐ Other: .

DETAILED ACTION

Claims 1-20 have been examined.

Drawings

1.   The drawings are objected to by Examiner because Figure 3 contains the word "AGENT" twice, which makes identifying the agent component confusing. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2.   The drawings submitted were approved by the draft person.

Specification

3.   The disclosure is objected to because of the following informalities: page 1, line 8 uses the word "They" when the word "There" is appropriate; page 5, lines 13-16, the sentence is very confusingly written and should be reworded. Appropriate correction is required.

4.   Claim 17 is objected to because of the following informalities: misspelled word "store" in the first line of the claim, should read "stores". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5.   Claims 5-8 and 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention. The claims and the portion of the specification

relating to the claims, fail to clearly identify the method by which the managing computer

and the managed computer inter relate the information regarding the "requested action".

It is unclear who or what (meaning, which computer) is in charge of determining what is

to be updated and why it is to be updated. Appropriate correction is required.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7.   Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Muller,

"Focus On OpenView: A Guide to Hewlett-Packard's Network and Systems

Management Platform" published 1995.

In regard to claim 1, Muller disclosed the limitations:

> [i)] *a method by which a managing computer manages applications on a managed*
>
> *computer* (OpenView provides this functionality, page 1)
>
> [ii)] *step (a) of forwarding an agent from the managing computer to the managed*
>
> *computer* (Figure 4-2 on page 68; and page 69 third bullet from the top of the
>
> page)
>
> [iii)] *step (b) of running the agent* (page 69, last two paragraphs)

ⁱᵛ⁾ *substep (b.1) of the agent maintaining applications residing on the managed*

computer (page 2, Software Distribution and Installation bullet)

ᵛ⁾ *substep (b.2) of performing requests made by the managing computer* (page

69, last paragraph)

In regard to claim 2, Muller disclosed the limitation of *the additional substep (b.3)*

detecting lost network connections (page 38, first sentence; nodes poll to determine if

they are still attached to the network, ie. not lost network connections; also page 164,

section Auto-Discovery demonstrates mapping the network and thus determining lost

network connections).

In regard to claim 3, Muller disclosed the limitation of *the additional substep (b.3) of*

monitoring network connection speed between the managed computer and the

managing computer (page 164, second paragraph under Management By Exception;

page 243, sixth bullet discusses traffic load, error rates and other details concerning

network connection speed; page 249, section Ethernet Hub Statistics discuses network

speed values that are tracked) *to determine a best time to transfer data* (OpenView

uses all of these statistics to analyze the network's performance).

In regard to claim 4, Muller disclosed the limitation of *the additional substep (b.3) of*

monitoring integrity of specified applications within the managed computer to ascertain

when repair is needed (page 1, first bulleted item).

In regard to claim 5, Muller disclosed the limitation of *the additional substep (b.3) of monitoring communications from the managed computer to determine when the managed computer desires the agent to take a requested action* (page 179-182; software distributor gathers information from the managed computer via the agent and if the managed computer indicates it needs an action (such as update certain software) then the software distributor allows this action to happen).

In regard to claim 6, Muller disclosed the limitation of *the additional substep (b.3) of wherein the requested action is to uninstall an application* (page 182, fourth paragraph of Software Management section; states the removal of software or in other words uninstalling an application).

In regard to claim 7, Muller disclosed the limitation of *the additional substep (b.3) of wherein the requested action is to stop an application* (Muller demonstrates stopping applications (a form of fault recovery) on page 63 under the Setting Up Event-Triggered Actions bullet).

In regard to claim 8, Muller disclosed the limitation of *the additional substep (b.3) of wherein the requested action is to upgrade an application* (page 180, last paragraph; upgrade is to install).

In regard to claim 9, Muller disclosed the additional limitations:

    [i] *substep (b.3) of monitoring network connection speed between the managed computer and the managing computer* (page 249, section Ethernet Hub Statistics discuses network speed values that are tracked)

    [ii] *substep (b.4) of stopping all network applications on the managed computer when the network connection speed is below a predetermined threshold* (Muller discloses OpenView's ability to monitor network connection speed as previously noted; Muller also describes setting up threshold values to monitor events and raise alarms pages 61-63; and finally Muller demonstrates stopping applications (a form of fault recovery) on page 63 under the Setting Up Event-Triggered Actions bullet)

In regard to claim 10, Muller disclosed the additional limitations:

    [i] *substep (b.3) of downloading a specified application from the managing computer to the managed computer* (page 179-182; Software Distributor performs this function)

    [ii] *substep (b.4) of installing the specified application* (page 180, last paragraph)

In regard to claim 11, Muller disclosed the limitations:

    [i] *an agent running on a managed computer* (Figure 4-2 on page 68; and page 69 third bullet from the top of the page)

ii) *an integrity sensor that monitors integrity of specified applications within the managed computer to ascertain when repair is needed* (page 1, first bulleted item)

iii) *an action sensor that monitors communications from the managed computer to determine when the managed computer desires the agent to take a requested action* (page 179-182; software distributor gathers information from the managed computer via the agent and if the managed computer indicates it needs an action (such as update certain software) then the software distributor allows this action to happen)

iv) *a main engine that maintains the specified applications and performs the requested action* (clearly the OpenView agent has a central element that performs the tasks which have been show above to be included in the agent)

In regard to claim 12, Muller disclosed the limitation *a network speed sensor that monitors connection information such as speed* (page 164, second paragraph under Management By Exception; page 243, sixth bullet discusses traffic load, error rates and other details concerning network connection speed; page 249, section Ethernet Hub Statistics discuses network speed values that are tracked) *to determine the best time to transfer data between the managing computer and the managed computer* (OpenView uses all of these statistics to analyze the network's performance, at the best performing times data should be transferred).

In regard to claim 13, Muller disclosed the limitation *wherein the requested action is to uninstall an application* (page 182, fourth paragraph of Software Management section; states the removal of software or in other words uninstalling an application).

In regard to claim 14, Muller disclosed *wherein the requested action is to stop an application* (Muller demonstrates stopping applications (a form of fault recovery) on page 63 under the Setting Up Event-Triggered Actions bullet).

In regard to claim 15, Muller disclosed the limitation *wherein the requested action is to upgrade an application* (page 180, last paragraph; install the application).

In regard to claim 16, Muller disclosed the additional limitation *wherein the main engine stops all network applications on the managed computer when the network connection speed is below a predetermined threshold* (Muller discloses OpenView's ability to monitor network connection speed as previously noted; Muller also describes setting up threshold values to monitor events and raise alarms pages 61-63; and finally Muller demonstrates stopping applications (a form of fault recovery) on page 63 under the Setting Up Event-Triggered Actions bullet).

In regard to claims 17-20, Muller disclosed the only additional limitation differing from the above claims 11-16. Muller disclosed *storage media that store[s] programming code which when run implements an agent running on a managed computer managed*

by a managing computer (OpenView is a software package, which is by nature installed

on some media to be executed as code).

Conclusion

8.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure as follows. Applicant is reminded that in amending in response to

a rejection of claims, the patentable novelty must be clearly shown in view of the state

of the art disclosed by the references cited and the objections made. Applicant must

also show how the amendments avoid such references and objections. See 37 CFR §

1.111(c).

[a] Bauer et al. (USPN 5,367,635) taught agents managing computers (see Figure

1). Furthermore, Bauer's Background section provides excellent information on

standard practice of managing network software via the use of agents controlled

by a managing computer. This reference is applicable to all claims.

[b] Compliment et al. (USPN 5,909,549) taught a system of maintaining network

connections between managed nodes. This reference also provides further

information on SNMP standard. This is applicable to applicant's claims regarding

lost network connections.

[c] Lam et al. (USPN 6,272,677) taught agents with the ability to update software

versions automatically. This is relevant to applicant's claims concerning the

managed computer informing the agent to update an application on the managed

computer.

d) Stupek, Jr. et al. (USPN 5,586,304) further taught the concept of updating

software from a central source.

e) Sondur et al. (USPN 6,282,568) taught a network management scheme

utilizing a manager and agent.

f) Ndumu et al. (USPN 6,314,555) taught a system of software agents.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (703)305-3305. The examiner can normally be reached 7:30am - 5:00pm Monday thru Thursday and 7:30am - 4:00pm every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (703)308-4789. The fax phone numbers for the organization where this application or proceeding is assigned are (703)746-7239 for regular communications and (703)746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

William H. Wood
July 16, 2002

Todd Ingberg
Art Unit 2124